

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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September 30, 2005

Section 5 Submission

Chief, Voting Section
Civil Rights Division
Room 7254 – NWB
Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20006

Re: Submission Under Section 5 of the Voting Rights Act for:

New Hampshire Revised Statute Annotated ("RSA") 655:17-a, a STATUTE related to the declaration of intent by other candidates, most recently amended by Laws of 1994 Chapter 381 and previously amended by the chapters cited below.

Dear Voting Section Chief:

Pursuant to 42 U.S.C. § 1973(c), the State of New Hampshire, through the Office of the New Hampshire Attorney General, hereby submits RSA 655:17-a, a STATUTE related to the declaration of intent by other candidates, most recently amended by Laws of 1994 Chapter 381 and previously amended by the chapters cited below.

SUBMISSION:

In accordance with 28 C.F.R. § 51.27, the submission is as follows:

- a) Chapter 381 (1994) amending RSA 655:17-a is attached (Exhibit 655:17-a A).
- b) Chapter 531 (1981) enacting RSA 655:17-a is attached (Exhibit 655:17-a B).
- c) The changes made by amendments to RSA 655:17-a are as follows:

1. Chapter 381 (1994) replaces the word "*qualified*" with the word "*registered*" on the form contained in this statute
2. Chapter 531 (1981) enacts RSA 655:17-a
- d) This submission is made by: Senior Assistant Attorney General Orville B. Fitch II, 33 Capitol Street, Concord, New Hampshire 03301, Phone: (603) 271-1238.
- e) The submitting authority is New Hampshire Attorney General, Kelly A. Ayotte for the State of New Hampshire.
- f) Not applicable.
- g) The changes for which pre-clearance is sought were made by a decision of the New Hampshire General Court (Legislature).
- h) In accordance with Amendment X of the U.S. Constitution, the New Hampshire General Court, the State's legislature, acting pursuant to the New Hampshire Constitution Part Second, Article 2, granting supreme legislative power within the state to the House and Senate, who with right to negate each other are granted power to make law through Part Second, Article 5. Additional authority regarding election law is vested in Part First, Article 11.

The legislature through a bicameral process passed law to create Chapter 381 (Exhibit 655:17-a A). The bill was signed into law (by the Governor) on June 9, 1994, pursuant to New Hampshire Constitution Part Second, Article 44.

- i) Adoption dates:
 1. Chapter 381 (1994) adopted June 9, 1994
 2. Chapter 531 (1981) adopted June 29, 1981
- j) Effective dates:
 1. Chapter 381 (1994) effective June 9, 1994
 2. Chapter 531 (1981) effective August 28, 1981
- k) The changes have been enforced.
- l) The changes affect the entire State of New Hampshire.

m) The purpose for the changes are as follows:

1. The purpose of the Chapter 381 (1994) change is to clarify the requirements of this statute by insuring any person filing for candidacy without a party nomination is a registered voter as opposed to a qualified voter
 2. The purpose of Chapter 531 (1981) is to enact RSA 655:17-a, a statute that establishes the declaration of intent form. The overall change affected by the chapter is to prevent someone from losing a primary and then running in the general election, by requiring that the declaration of intent form established by RSA 655:17-a be filed by the same deadline as is established for filing for nomination at a primary.
- n) These changes do not negatively target any protected class under section 5 of the Voting Rights Act of 1965. 42 U.S.C. 1973(c). They are expected to have neutral impact and do not meet the test of retrogression defined in *Reno v. Bossier Parish Sch. Bd*, 520 U.S. 471, 478 (1997). “(T)he ability of minority groups...to elect their choices to office” will not be diminished. *Beer v. U.S.*, 425 U.S. 130, 141 (1976).
- o) None known.
- p) RSA 655:17-a was never precleared. This submission seeks preclearance of Chapter 381 (1994) and all previous changes.
- q) Not applicable as this is not a redistricting plan.
- r) Exhibit 655:17-a C is a copy of a Press Release of this submission, its availability, and inviting comment to federal Department of Justice.

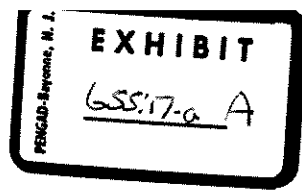
I expect the foregoing information is sufficient to enable the United States Attorney General to make the required determination pursuant to Section 5 of the Voting Rights Act. If further information is required or would be helpful, please contact me.

Very truly yours,



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CHAPTER 381

HOUSE BILL - FINAL VERSION

1994 SESSION 3933B

94-2529

10/02

HOUSE BILL 1566-FN

AN ACT relative to the duties of the secretary of state, including accounting for certain fees, relative to voting in organized places which are not organized for voting, relative to the declaration of intent form, relative to filing for a special election primary, relative to the party designation on ballots, relative to the board of claims, and relative to the appropriation to the board of auctioneers to fund continuing education.

SPONSORS: Rep. Gilmore, Straf 11; Rep. Flanagan, Rock 14

COMMITTEE: Constitutional and Statutory Revision

AMENDED ANALYSIS

This bill amends the duties of the secretary of state by:

(1) Providing that the province records shall be kept in the state archives rather than in the vaults of the state library.

(2) Repealing the requirement that the secretary of state account for fees received for official acts and pay these fees over to the state treasurer.

The bill amends the declaration of intent form which nonparty and other candidates must sign by changing "qualified" voter to "registered" voter, and corrects the list of offices to be

records, and all the original papers of the province of New Hampshire prior to the time the act for the division of said province into counties took effect, shall be kept by the secretary of state in the [vaults of the state library or some other place provided by the governor and council] **division of records management and archives.**

381:2 Repeal. RSA 5:11, relative to the accounting of fees by the secretary of state and payment to the state treasurer, is repealed.

381:3 Places Organized for Voting. Amend RSA 668:1 to read as follows:

668:1 Organization for Voting. The offices for which the inhabitants of an unincorporated place are entitled to vote shall include: [Electors of the president and vice-president] **President and Vice-President** of the United States, United States senator, United States representative, **governor, executive** councilor, state senator, state representative and county offices. The provisions of the election laws relating to town meetings for the choice of election officers and the conduct of state elections shall apply to unincorporated places organized as provided by RSA 53:1.

381:4 Places Not Organized for Voting. Amend RSA 668:4 to read as follows:

668:4 Offices Voted For. The offices for which inhabitants of unorganized places are entitled to vote shall include: [Electors of the president and vice-president] **President and Vice-President** of the United States, United States senator, United States representative, **governor, executive** councilor, state senator, state representative, and county offices. The inhabitants of the unorganized places are not entitled to vote for any town or ward offices or on any questions concerning the towns in which they vote.

381:5 Form of Declarations of Intent. Amend RSA 655:17-a to read as follows:

655:17-a Declaration of Intent; Other Candidates. Declarations of intent for nonparty or other candidates shall be in the following form and signed by the candidate:

I,, declare that I am domiciled in Ward, in the city (or town or unincorporated place) of, county of, state of New Hampshire, and am a

[qualified] **registered** voter herein; that I intend to be a candidate for the office of to be chosen at the general election to be held on the day of; and I intend to file nomination papers by the deadline established under RSA 655:43. I further

declare that, if qualified as a candidate for said office, I shall not withdraw; and that, if elected, I shall be qualified for and shall assume the duties of said office.

381:6 Special Election; Filing with Town or City Clerk. Amend RSA 655:81, III to read as follows:

III. Under RSA 655:15, the official with whom state representative candidates shall file shall be the secretary of state, **except that a state representative candidate may file with the appropriate town or city clerk under RSA 655:15 or with the secretary of state during the first Monday and Tuesday only of the filing period in towns and cities in which the clerk's office is open on one or both of those days, in which case the town or city clerk shall forward each declaration of candidacy to the secretary of state on the same day on which the declaration is filed;** and

381:7 Form of Ballot. RSA 656:5 is repealed and reenacted to read as follows:

656:5 Listing Candidates on Ballot.

I. The names of all candidates nominated in accordance with the election laws shall be arranged by office in accordance with the provisions of RSA 656:7. The names of candidates for any one office shall not be split into more than one column.

II. All candidates for the same office shall be placed on separate lines within a separate box. The name of each candidate shall be grouped according to the party which nominates the candidate, and the names of the candidates of the party which received the largest number of votes at the last preceding state general election shall be listed first. The names of the candidates shall be printed with the given name first, and the candidates shall be listed alphabetically according to their surnames within each party grouping. The name of the party which nominates the candidate shall be printed near the candidate's name.

381:8 Party Designation. RSA 656:9 is repealed and reenacted to read as follows:

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CHAPTER 530

793

CHAPTER 530 (SB 291)

AN ACT ESTABLISHING AN INTERIM COMMITTEE TO STUDY CONTROLS
FOR OFF HIGHWAY RECREATIONAL VEHICLES AND
MAKING AN APPROPRIATION THEREFOR.

*Be it Enacted by the Senate and House of Representatives in General Court
convened:*

530:1 Committee Established. There is hereby established a committee to study and examine controls and regulations presently in effect pertaining to off highway recreation vehicles in the state. The committee shall be composed of 3 members of the house, appointed by the speaker; 3 members of the senate, appointed by the president of the senate; the commissioner of the department of resources and economic development or his designee; the commissioner of safety or his designee; the executive director of fish and game or his designee; 2 members of the New Hampshire Snowmobile Association, appointed by the board of directors of the New Hampshire Snowmobile Association; a representative from the White Mountain national forest; a representative from the New Hampshire Timberland Owners Association; 2 members of the New England Trail Riders Association, to be appointed by the New Hampshire trustees of the New England Trail Riders Association; and 2 members at large appointed by the governor. The members shall choose a chairman. The committee shall make a careful study of the laws presently in effect in this state and propose legislation for any changes that they feel are needed. The committee shall have the authority to request and shall receive assistance from all state agencies and departments in conducting its study. The office of legislative services shall provide technical and legal services to the committee to the extent possible. The non-legislative members of the committee shall be reimbursed for actual expenses and are entitled to the same mileage as paid to state employees when performing duties in connection with work of the committee. The legislative members of the committee shall be entitled to legislative mileage when performing duties in connection with work of the committee. The committee shall make a report of its findings and recommendations to the 1983 session of the general court not later than December 15, 1982.

530:2 Appropriation. Notwithstanding any other provision of law to the contrary, the sum of \$10,000 shall be appropriated from the grants-in-aid fund in the department of resources and economic development for the purpose of section 1 of this act.

530:3 Effective Date. This act shall take effect 60 days after its passage.

[Approved June 29, 1981.]

[Effective Date August 28, 1981.]

CHAPTER 531 (SB 295)

AN ACT PROHIBITING LOSERS IN PARTISAN PRIMARIES
FROM RUNNING BY FILING NOMINATION PAPERS.

*Be it Enacted by the Senate and House of Representatives in General Court
convened:*

531:1 Declaration of Public Interest. It is hereby declared to be in the

public interest to prohibit any candidate who is defeated in a primary from running as a candidate in the following general election. It is further declared to be in the public interest to have this prohibition apply to candidates who run for either state or federal office excepting presidential elections. The general court therefore declares that the means for prohibiting candidates from running for public office in the general election following the primary in which they have been defeated is to require all candidates to file their declarations of intent or candidacy during the same period.

531:2 Filing by Other Candidates. Amend RSA 655 by inserting after section 14 the following new section:

655:14-a Filing by Other Candidates. Every candidate for state or federal office, excluding a candidate for president, who intends to have his name placed on the ballot for the state general election by means other than nomination by party primary, shall file a declaration of intent with the appropriate official as provided in RSA 655:17-a during the same time period in which party candidates file a declaration under RSA 655:14.

531:3 Declaration of Intent; Other Candidates. Amend RSA 655 by inserting after section 17 the following new section:

655:17-a Declaration of Intent; Other Candidates. Declarations of intent for nonparty or other candidates shall be in the following form and signed by the candidate:

I,, declare that I am domiciled in Ward, in the city (or town or unincorporated place) of, County of, state of New Hampshire, and am a qualified voter herein; that I intend to be a candidate for the office of to be chosen at the general election to be held on the day of; and I intend to file nomination papers by the deadline established under RSA 655:43. I further declare that, if qualified as a candidate for said office, I shall not withdraw; and that, if elected, I shall be qualified for and shall assume the duties of said office.

531:4 Withdrawal by Nonparty Candidates. Amend RSA 655:30 (supp) as inserted by 1979, 436:1 by striking out said section and inserting in place thereof the following:

655:30 Withdrawal. When a party candidate has duly filed according to law for nomination at a primary election or when a nonparty or other candidate has duly filed according to law to have his nomination papers in by the day of said primary under RSA 655:17-a, no withdrawal or declination of the candidate shall be accepted by the secretary of state subsequent to the last dates for filing a declaration of candidacy, except as provided in RSA 655:31 and 655:34.

531:5 Filing Deadline Standardized. Amend RSA 655:43 (supp) as inserted by 1979, 436:1 by striking out said section and inserting in place thereof the following:

655:43 Filing Deadline.

I. Nomination papers shall be filed with the secretary of state no later than 5:00 p.m. on the day of the primary. No nomination papers shall be accepted by the secretary of state unless the candidate will have met the age and domicile qualifications for the office he seeks at the time of the general election and meets all the other qualifications at the time of filing; and, if a candidate for the office of governor, councilor, state senator, or state represen-

tative, unless provisions as provided in the State senate qualifications for

II. No candidate for general election nomination papers shall be accepted for filing, as provided in RSA 655:14

III. No person shall be eligible to be chosen as a candidate for submitting a

531:6 Severability. Any provision of this act which is held to be invalid shall be severed from the act and the remainder of the act shall remain in force and effect.

531:7 Effective Date.

[Approved Jointly by the Senate and House of Representatives]
[Effective Date:

AN ACT

Be it Enacted by the Senate and House of Representatives convened:

532:1 Dec 195-D:1 (supp) section and in

195-D:1 D that for the benefit of the welfare, and the health of the people, it is essential that the fullest opportunities be provided with appropriate required level of capacities; that the state be provided with the necessary resources to establish health facilities; that it is essential that provision be made for the health of the people within the state; that powers and authority be provided for the health facilities to be initiated as provided in the public health corporation of the state to constitute the

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tative, unless he shall file with the nomination papers an affidavit of qualifications as provided for in RSA 655:28 and 655:29; and if a candidate for United States senator or United States representative, unless he shall meet the qualifications for office under RSA 655:3 and 655:4.

II. No candidate who intends to run for any state or federal office in the state general election, excluding a candidate for president, by means of nomination papers shall have his name placed on the ballot unless he files a declaration of intent, as provided in RSA 655:17-a, within the filing deadline required by RSA 655:14-a.

III. No person who filed as a candidate in the state primary election shall be eligible to have his name placed on the ballot for the state general election by submitting nomination papers as provided in this subdivision.

531:6 Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provisions or application; and, to this end, the provisions of this act are severable.

531:7 Effective Date. This act shall take effect 60 days after its passage.

[Approved June 29, 1981.]

[Effective Date August 28, 1981.]

CHAPTER 532 (HB 933)

AN ACT AUTHORIZING THE FINANCING OF NONPROFIT NURSING HOMES.

Be it Enacted by the Senate and House of Representatives in General Court convened:

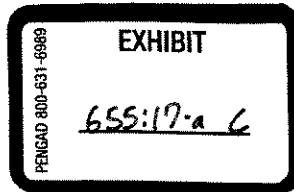
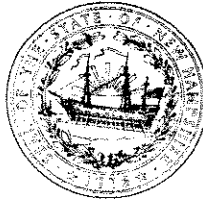
532:1 Declaration of Policy to Include Nursing Homes. Amend RSA 195-D:1 (supp) as inserted by 1969, 318:1 as amended by striking out said section and inserting in place thereof the following:

195-D:1 Declaration of Policy. It is declared to be the policy of the state that for the benefit of the people of the state, the increase of their commerce, welfare, and prosperity and the improvement of their health and living conditions, it is essential that this and future generations of youths be given the fullest opportunity to learn and develop their intellectual and mental capacities; that it is essential that educational institutions within the state be provided with appropriate additional means to assist such youths in achieving the required levels of learning and development of their intellectual and mental capacities; that it is essential that hospitals and nursing homes within the state be provided with appropriate additional means to expand, enlarge and establish health care, hospital, nursing home and other related facilities; that it is essential that hospitals, nursing homes and institutions for higher education within the state be encouraged and assisted in reducing the costs of providing health care, nursing care or higher education; that it is essential that powers be conferred on the New Hampshire higher educational and health facilities authority as will assure the successful completion of projects to be initiated by the corporation or the refinancing of existing indebtedness as provided in this chapter so as to accomplish the purposes of this chapter all to the public benefit and good. It is further declared that the exercise by the corporation of the powers conferred on the corporation under this chapter will constitute the performance of an essential governmental function.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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News Release

RELEASED BY: Attorney General Kelly A. Ayotte

SUBJECT: Voting Rights Act – Submission of a request for preclearance of changes to New Hampshire Voting laws and procedures

DATE: June 10, 2005

RELEASE TIME: Immediate

Attorney General Kelly A. Ayotte announces the submission of requests for preclearance of changes made to the election laws in New Hampshire to the Federal Department of Justice. Preclearance submissions will address changes made to New Hampshire's election laws since jurisdictions in the State became subject to preclearance.

Ten New Hampshire towns are subject to section 5 of the federal Voting Rights Act. Changes to New Hampshire election laws that affect any of these ten towns must be submitted for review by either the Federal Department of Justice or the Federal District Court for Washington D.C. The federal Department of Justice will review the changes to New Hampshire's election laws to ensure that the changes do not have the effect of denying or abridging the right to vote on account of race or color, or membership in a language minority group. Changes to New Hampshire redistricting statutes have been submitted to, and approved by, the U.S. Justice Department since the 1980 census. Federal regulations require that the public be notified that the State has filed a request for preclearance and that the submission be available for public inspection.

Copies of each submission by the Attorney General for the State of New Hampshire are available at the office of the Attorney General at 33 Capitol Street, Concord New Hampshire, 03301. Each document will also be made available at the Attorney General's Office web site at:

<http://www.doj.nh.gov/elections/>

Attorney General Ayotte and the federal Department of Justice invite persons interested in this submission to submit comments and information, in writing or by telephone, to the Voting Section of the Federal Department of Justice, Civil Rights Division, at the earliest possible date to ensure that they may be considered during the preclearance review time period. Telephone 1-800-253-3931 or (202) 307-2385 or write Chief, Voting Section, Civil Rights Division, Room 7354 – NWB, Department of Justice, 950 Pennsylvania Ave., NW, Washington, DC 20530. The envelope and first page should be marked "Comment under section 5." Additional information on the Voting Rights Act and the preclearance process can be obtained at the web site of the Federal Department of Justice at:

<http://www.usdoj.gov/crt/voting/index.htm>

The New Hampshire Attorney General's Office Voting section can be contacted at:

<http://www.doj.nh.gov/elections/>
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